

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. APPLICATION NO. 09/921,595
Attorney Docket No. A7949

REMARKS

General remarks.

Claims 1, 2, 4-27 and 35-39 are all the claims pending in the application. Claims 3 and 28-34 have been canceled, without prejudice or disclaimer. New independent claim 35 is fully supported in the originally-filed specification at, e.g., Fig. 9 and paragraphs [0074]-[0075]. New claims 37-39 depend ultimately from claim 1.

The rejection over Linder.

The Examiner rejected independent claim 1 under 35 U.S.C. §102 as being anticipated by Linder. Claim 1, as now amended, patentably distinguishes over Linder in view of its requirement for:

obtaining a first observation automatically recorded by a data sampling device, and a second observation manually recorded by a user, said first and said second observations defining a plurality of different observations, said plurality of different observations relating to data of an identical subject;

In Linder, the only manner of providing observations for a given subject is by way of automatic recordation by a data sampling device. Linder lacks any teaching or suggestion of obtaining a second observation, manually recorded by a user. Moreover, Linder lacks the requirement that the plurality of different observations relate to data of an identical subject.

Applicant therefore respectfully submits that claim 1, as now amended, patentably distinguishes over Linder. Applicant therefore respectfully requests the Examiner to withdraw this rejection of independent claim 1.

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The rejection over Murphy.

The Examiner rejected claims 2, 3, 14, 15, 26, and 27 under 35 U.S.C. § 102 as being anticipated by Murphy. Of these, claims 2, 14, and 26 are independent. Applicant turns first to independent claim 2.

Independent claim 2.

Applicant respectfully traverses this rejection of claim 2, as now amended, in view of its requirement for:

providing to said client a selected clinical trial module, indicated by said clinical trial selection and corresponding to a selected one of said matching clinical trials, said module being adapted to obtain clinical trial data including a respective data observation;

Murphy lacks any teaching or suggestion of providing a module, to the client, that is adapted to obtain clinical trial data including a respective data observation. Contrary to the Examiner's contention, Murphy does not carry out any phase of any clinical trial. Murphy matches clinical trials to qualified individuals, but only identifies the matching clinical trial information and presents it to the user. Fig. 10 of Murphy shows the kind of information provided to the client.

Since Murphy does not teach or suggest providing a selected clinical trial module adapted to obtain clinical trial data, Murphy cannot be said to anticipate claim 2 within the meaning of 35 U.S.C. § 102. Applicant therefore respectfully requests the Examiner to withdraw this rejection of claim 2.

Independent claim 14.

Independent claim 14, as now amended, patentably distinguishes over Murphy in view of its requirement for:

one or more clinical trial modules adapted to obtain clinical trial data, including respective data observations;

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As already explained, Murphy lacks any teaching or suggestion of carrying out a clinical trial, much less providing a selected clinical trial module that is adapted to obtain clinical trial data. Murphy therefore does not anticipate claim 14, or its dependent claim 15.

Independent claim 26.

Claim 26, as now amended, patentably distinguishes over Murphy in view of its requirement for:

the selected clinical trial module being adapted to obtain clinical trial data, including a respective data observation, from a clinical trial subject.

As already pointed out above, Murphy lacks any teaching or suggestion of carrying out a clinical trial, and thus fails to meet the foregoing requirement of independent claim 26. Applicant therefore respectfully requests the Examiner to withdraw this rejection of independent claim 26 and its dependent claim 27.

Rejections over Murphy in view of Linder.

The Examiner rejected claims 4-13, 16-19, and 20-26 under 35 U.S.C. §103(a) as being unpatentable over Murphy in view of Linder. Claims 4-13 depend ultimately from independent claim 2; claims 16-25 depend ultimately from independent claim 14; claim 26 is independent. Applicant respectfully traverses this rejection, first with respect to dependent claims 4-13.

Murphy teaches a system for matching clinical trials to qualified individuals, and notifying the individuals of any clinical trials for which they qualify. Linder teaches a way to automatically collect data observations from medical devices. The combined teachings of these two references, however, fail to teach or suggest a method that provides to a client a selected clinical trial module adapted to obtain clinical trial data. More particularly, even though Murphy helps identify a given clinical trial, it does not mention how a user is supplied with any means for collecting the clinical trial data from the user. Linder teaches how to collect medical data

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observations from medical devices, but it does not teach or suggest providing any clinical trial module based on an indication of a clinical trial selection.

The most that can be said of the Murphy / Linder combination is that Murphy teaches how to point out to a user whether he qualifies for a trial, and that Linder teaches how to collect data for the trial once the user is outfitted with the medical devices and appropriate software modules. What is missing is the teaching or suggestion of providing to the client a selected clinical trial module, indicated by the clinical trial selection and corresponding to a selected one of the matching clinical trials.

The combined teachings of Murphy and Linder, even taken for what they would have meant as a whole to an artisan of ordinary skill, thus do not meet all of the requirements of independent claim 2, as now amended, much less the further requirements of dependent claims 4-13. Applicant therefore respectfully requests the Examiner to withdraw this rejection of claims 4-13.

The foregoing comments are respectfully submitted to apply with equal force to the rejection of claims 16-25, by analogy, in view of the already mentioned features of independent claim 14. Applicant therefore also respectfully requests the Examiner to withdraw this rejection of claims 16-25.

As to claim 26, likewise, the combined teachings of Murphy and Linder lack the requirement for "a module for accepting a user selection of one of said one or more matching clinical trials, and sending to said clinical trial data server a clinical trial selection; and a module for receiving and installing a selected clinical trial module corresponding to said clinical trial selection, the selected clinical trial module being adapted to obtain clinical trial data, including a respective data observation, from a clinical trial subject." Applicant thus respectfully requests the Examiner to also withdraw this rejection of independent claim 26.

New claims.

New claim 35 patentably distinguishes over the prior art in view of its requirements for selecting modules to handle processing at the server for two different kinds of clients that

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provide observations for the same subject. One kind provides observations via a web browser, and another provides observations from a data sampling device. Linder does not meet this requirement, since it obtains observations from only a data sampling device but not via a web browser as well, for the same subject. Murphy does not mention collecting observations. Furthermore, claim 35 requires combining a data engine with selected modules to provide a data management server. Neither Linder nor Murphy teaches or suggests how to provide a data management server, let alone providing a data management server by combining selected modules with a data engine. For all of these reasons, Applicant respectfully solicits of the Examiner the allowance of new claim 35 and its dependent claim 36.

New claims 37-38 are patentable at least by virtue of their relation to independent claim 1.

Conclusion and request for telephone interview.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Kelly G. Hyndman/
Kelly G. Hyndman
Registration No. 39,234

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

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